

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

In re:

ATHENEX, INC., et al.,

Debtors.<sup>1</sup>

Chapter 11

Case No. 23-90295 (DRJ)

(Jointly Administered)

**DECLARATION OF DISINTERESTEDNESS OF ARNOLD & PORTER KAYE  
SCHOLER LLP PURSUANT TO THE ORDER AUTHORIZING THE RETENTION  
AND COMPENSATION OF CERTAIN PROFESSIONALS UTILIZED IN THE  
ORDINARY COURSE OF BUSINESS**

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I, David R. Marsh, make this declaration (this “Declaration”) under penalty of perjury:

1. I am a Partner of Arnold & Porter Kaye Scholer LLP located at 601 Massachusetts Ave NW, Washington, D.C. 20001 (“Arnold & Porter”).

2. Athenex, Inc. and certain of its affiliates, as debtors and debtors in possession (collectively, the “Debtors”) in the above-captioned chapter 11 cases (the “Chapter 11 Cases”), have requested that Arnold & Porter provide intellectual property legal services to the Debtors and Arnold & Porter has consented to provide such services.

3. Arnold & Porter may have performed services in the past, may currently perform services, and may perform services in the future, in matters unrelated to these Chapter 11 Cases, for persons that are parties in interest in these Chapter 11 Cases. Arnold & Porter does not perform services for any such person in connection with these Chapter 11 Cases or have any relationship

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<sup>1</sup> A complete list of each of the Debtors in these Chapter 11 Cases may be obtained on the website of the Debtors’ proposed claims and noticing agent at <https://dm.epiq11.com/athenex>. The location of Athenex, Inc.’s principal place of business and the Debtors’ service address in these Chapter 11 Cases is 1001 Main Street, Suite 600, Buffalo, NY 14203.

with any such person, their attorneys, or accountants that would be adverse to the Debtors or their estates with respect to the matter on which Arnold & Porter is proposed to be employed.

4. As part of its customary practice, Arnold & Porter is retained in cases, proceedings, and transactions involving many different parties, some of whom may represent or be employed by the Debtors, claimants, and parties in interest in these Chapter 11 Cases.

5. Neither I nor any principal, partner, director, officer of, or professional employed by Arnold & Porter has agreed to share or will share any portion of the compensation to be received from the Debtors with any other person other than the principal and regular employees of Arnold & Porter.

6. Neither I nor any principal, partner, director, officer of, or professional employed by Arnold & Porter insofar as I have been able to ascertain, holds or represents any interest adverse to the Debtors or their estates with respect to the matter(s) upon which Arnold & Porter is to be employed.

7. The Debtors owe Arnold & Porter \$204,626.02 for prepetition services, the payment of which is subject to limitations contained in the United States Bankruptcy Code, 11 U.S.C. §§ 101–1532.<sup>2</sup>

8. I understand that the amount owed by any of the Debtors to Arnold & Porter for prepetition services will be treated as a general unsecured claim, and, as such, Arnold & Porter may file a proof of claim.

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<sup>2</sup> Arnold & Porter received an advance of \$7,262.00 on or around May 19, 2023 and another advance of \$5,490.00 on or around June 2, 2023 from the Debtors to pay for filing fees and expenses associated with Arnold & Porter's provision of maintaining certain intellectual property for the Debtors and ensuring such rights did not lapse. Upon approval of Arnold & Porter as an ordinary course professional, it will apply those funds to its post-petition expenses incurred.

9. I further understand that this Declaration will not suffice as Arnold & Porter's proof of claim.

10. As of May 14, 2023, which was the date on which the Debtors commenced these Chapter 11 Cases, Arnold & Porter was not party to an agreement for indemnification with certain of the Debtors.

11. Arnold & Porter is conducting further inquiries regarding its retention by any creditors of the Debtors, and upon conclusion of that inquiry, or at any time during the period of its employment, if Arnold & Porter should discover any facts bearing on the matters described herein, Arnold & Porter will supplement the information contained in this Declaration.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Date: August 1, 2023

  
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David R. Marsh